

REMARKS

Status of the Claims

Claims 1-11 and 13-32 are pending.

Claims 1 and 12 are combined. Accordingly, claim 12 is cancelled and claim 23 is amended consistent with the amendment to base claim 1.

Claim 3 is amended to correct its dependency.

Claim Rejections

Applicants respectfully request reconsideration of the claim rejections made in the Office action.

I. Claim Objection

Claim 3 is objected to. Claim 3 is amended to overcome the objection.

II. 35 USC 102

Failure to traverse each and every argument proposed by the Office action is not an admission that the Office action is correct.

A. Rensch US 3,374,593

Claims 1, 2, 4, 5, 8, 11, 16, 19 and 22 are rejected under 35 USC 102(b) as being unpatentable over Rensch US 3,374,593 (hereinafter "Rensch").

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

B. Silber US Pat. Pub. 2005/0166521

Claims 1, 2, 4, 5, 8, 11, 16, 19 and 22 are rejected under 35 USC 102(e) as being unpatentable over Silber US Pat. Pub. 2005/0166521 (hereinafter "Silber").

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

III. 35 USC 103

A. Jensen US Pat. Pub. 2006/0272244 and Rensch

The Office action rejects claims 1-5, 8, 9, 11, 13, 14, 16-20, 22 and 26 under 35

U.S.C. §103(a), as being unpatentable over Jensen US Pat. Pub, 2006/0272244 (hereinafter "Jensen") in view of Rensch.

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

B. Jensen and Rensch and Applicant's Specification

The Office action rejects claim 10 under 35 U.S.C. §103(a), as being unpatentable over Jensen in view of Rensch and Applicant's Specification.

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

C. Jensen and Rensch and Kleine et al US 4,248,025 (hereinafter "Klein")

Claims 1 and 12 are combined. The Office action at page 10 rejects claims 12 and 23 under 35 U.S.C. §103(a), as being unpatentable over Jensen in view of Rensch and Kleine.

The Office action asserts Klein teaches it is known to vertically stagger metal panel sections of a metal column (see 26, 27 in figures 2-4). The Office action asserts it would have been obvious to vertically stagger the sections 3 of Jensen's invention, because by staggering the sections with respect to each other, the horizontal joints will not be in a line. The joints will be staggered and produce a stronger column. The Office action asserts this is taught by Klein at column 3, lines 32-47.

This rejection is respectfully traversed. It is submitted there is no motivation to combine the references.

Klein, col. 3, lines 42-47 states,

"The seams 26 and 27 are all staggered in a parallel nonplanar relation to maximize strength of the post. By this arrangement, seams between upper and lower edges of the associated butt engaged vertically-extending plates are located in different elevational planes."

However, as apparent from Klein Figs. 5-8, Klein does not provide a horizontal flange. Accordingly it cannot bolt attach a member directly to a vertically above

member. Thus, Klein must vertically stagger the elements. In contrast, Jensen has plane flanges 4 (Fig. 2 and paragraph 0045) so a member is directly attached to the member vertically above it.

It would defeat the operation of Jensen to stagger its semi-cylindrical members. Jensen paragraph 0045 states, " The tower comprises a number of shell segments 1 of rolled steel plates, which bolted together side-by-side make up complete circumferential tower sections 2 (see FIGS. 2 and 5), said sections being secured one on top of another by bolts (see FIGS. 3 and 4)."

Paragraph 0045 states "Each top and bottom edge of a combined length of shell segments 3 are provided with a plane flange 4 extending inwardly and carrying a large number of throughholes 5 to receive corresponding bolts for tightening sections securely together." (emphasis added).

Claim 8 part "e" of Jensen, recites a complete section is assembled by welding and along vertical flanges then as indicated by claim 8 part "f" of Jensen tower sections are mounted on top of each other by connecting them along their opposing horizontal flanges by connecting means, e.g., bolts. This is also in paragraphs 0023 and 0024 of the Summary of the Invention of Jensen.

Vertically staggering the sections would interfere with Jensen's assembly procedure. Thus, the combination proposed by the Office action renders Jensen inoperative to achieve an intended purpose. "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984), *cited by* MPEP 2143.01.V. Thus, combining Jensen with Klein is improper and it is submitted this rejection is overcome.

D. Jensen and Rensch and Milliken US Des. 21074 (hereinafter "Milliken")

The Office action at page 11 rejects claims 21 and 32 under 35 U.S.C. §103(a), as being unpatentable over Jensen in view of Rensch and Milliken.

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

E. Jensen and Rensch and Silber

The Office action at page 12 rejects claims 24 and 25 under 35 U.S.C. §103(a), as being unpatentable over Jensen in view of Rensch and Silber.

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

F. Jensen US Pat. Pub, 2006/0272244 and Baker US 6,148,585

The Office action at page 12 rejects claims 6, 7, 15, 27, 30 and 31 under 35 U.S.C. §103(a), as being unpatentable over Jensen in view of Rensch and Baker US 6,148,585 (hereinafter "Baker").

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

G. Jensen US Pat. Pub, 2006/0272244 and Arand EP 0960986

The Office action at page 14 rejects claims 15 and 27-29 under 35 U.S.C. §103(a), as being unpatentable over Jensen in view of Rensch and Arand EP 0960986 (hereinafter "Arand").

Claims 1 and 12 are combined. Claim 12 is not rejected under this rejection. Thus, the rejection is moot.

Fee Authorization

The Director is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account 14-1437. Please credit any excess fees to such account.

Conclusion

The present application is in condition for allowance, and applicants respectfully request favorable action. In order to facilitate the resolution of any questions, the Examiner is welcome to contact the undersigned by phone.

NOVAK DRUCE + QUIGG, LLP
300 New Jersey Avenue, N.W.
Fifth Floor
Washington, D.C. 20001

Phone: (202) 659-0100
Fax: (202) 659-0105

Date: Wednesday, November 24, 2010

Attorney Docket No. 18459.0020.US0000
APV/bms

Respectfully submitted,
NOVAK DRUCE + QUIGG, LLP

By: /anthony p venturino/

Anthony P. Venturino
Registration No. 31,674